

MYERS

EXHIBIT C

**Laurel Park v. City of Tumwater
Deposition of Robert Eichler**

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAUREL PARK COMMUNITY, LLC, a)
Washington limited liability)
company; TUMWATER ESTATES)
INVESTORS, a California limited)
partnership; VELKOMMEN MOBILE)
PARK, LLC, a Washington limited)
liability company; and)
MANUFACTURED HOUSING COMMUNITIES)
OF WASHINGTON, a Washington)
non-profit corporation.)

No. C09-5312 BHS

Plaintiffs,

vs. .

CITY OF TUMWATER, a municipal corporation,

Defendant.)

DEPOSITION UPON ORAL EXAMINATION OF
ROBERT EICHLER
February 15, 2010
Tumwater, Washington

Taken Before:

Connie Church, CCR #2555, RPR, CRR
Certified Court Reporter
of

CAPITOL PACIFIC REPORTING, INC

2401 Bristol Court SW, Suite A-104

Olympia, WA 98502

Tel (360) 352-2054 or (800) 407-0148 Fax (360) 705-6539

www.capitolpacificreporting.com
admin@capitolpacificreporting.com

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 2

1

APPEARANCES

2

3 FOR THE PLAINTIFF(S) : MR. WALTER OLSEN
4 ATTORNEY AT LAW
5 OLSEN LAW FIRM, PLLC
6 604 W. Meeker Street, Ste 101
7 Kent, WA 98032
8 PH: (253) 813-8111
9 FAX: (253) 813-8133
10 E-MAIL: walt@olsenlawfirm.com

11 FOR THE DEFENDANT(S) : MR. JEFFREY MYERS
12 ATTORNEY AT LAW
13 LAW LYMAN DANIEL KAMERRER &
14 BOGDANOVICH
15 P.O. Box 11880
16 Olympia, WA 98508-1880
17 PH: (360) 754-3480
18 FAX: (360) 357-3511
19 E-MAIL: jmyers@lldkb.com

20

21

22

23

24

25

1 And the court reporter, of course, is taking things down
2 verbatim. So it's important for us to try not to
3 interrupt each other so she can take down a good
4 transcript of what's said.

5 If you have any questions about the meaning of my
6 question to you, please let me know. I'll try to
7 rephrase it. I think you have the right to understand
8 the question. Conversely, if I ask you a question and
9 you answered the question, I'll assume that you
10 understood it. Is that fair?

11 A All right.

12 Q Okay. What is your business address?

13 A 2201 Third Avenue, Number 2303, Seattle, 98121.

14 Q And you live in the city of Seattle?

15 A No.

16 Q Where do you live?

17 A Hunts Point, Washington.

18 Q Okay. You are affiliated with the plaintiff, Laurel Park
19 Community, LLC; correct?

20 A Yes.

21 Q [Are you the principal owner of Laurel Park Community,
22 LLC?

23 A The sole member, managing director - managing member.

24 Q The sole member? How long have you been - or how long
25 has Laurel Park Community, LLC, been in existence?

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 6

1 A About two years.
2 Q And how was Laurel Park Mobile Home Park owned prior to
3 formation of Laurel Park Community, LLC?
4 A By myself personally.]
5 Q What was the purpose of forming the LLC?
6 A Basically my attorney's advice.
7 Q What was the goal of forming the LLC?
8 A I think LLC's are a protection for liability purposes.
9 Q Was there any refinancing of the property involved when
10 you formed the LLC?
11 A No.

12 (Deposition Exhibit No. 1 marked
13 for identification.)

14 Q (BY MR. MYERS) Mr. Eichler, I'm handing you an aerial
15 photograph which comes out of the appraisal report done
16 by Stephen Shapiro in this matter. I just want you to
17 take a look at it and say do you recognize that as being
18 an aerial photograph of your mobile home park?
19 A Yes.
20 Q Would you describe the surrounding community that abuts
21 your mobile home park.
22 A On one side of my property is a vacant ten acres that has
23 been approved for 122 new residences. On the other side
24 of my property is residential with several new
25 subdivisions abutting the street right across from my

1 subdivision?

2 A As I understand it. Yes.

3 Q Is there any multifamily development surrounding your
4 property?

5 A I haven't investigated by driving around, so I don't
6 believe I can answer that question.

7 Q Have you done any investigation as to whether there's any
8 multifamily development planned adjacent to or nearby
9 your property?

10 A No.

11 Q Okay. How many acres do you have?

12 A 11.7.

13 Q And how many spaces do you have in the two phases?

14 A 73.

15 Q And do you know how - what the zoning is on the property
16 surrounding your mobile home park?

17 A No, I don't.

18 Q Okay. Do you believe that operating the mobile home park
19 is consistent with the surrounding uses in the community?

20 A No, I don't believe it's consistent with the surrounding
21 properties.

22 Q Why don't you believe it's consistent with the
23 surrounding community?

24 A Because the surrounding community is obviously going
25 single-family residential with a much higher density than

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 10

1 my mobile home park.

2 Q Do you believe that the mobile home park is, in any way,
3 detrimental to the surrounding community?

4 A Yes, I do. I think that mobile home parks normally are
5 considered depreciative of values. It's always been an
6 old joke. Nobody wants to live next to an old mobile
7 home park.

8 Q Is your mobile home park detrimental to the surrounding
9 community?

10 A I don't know.

11 Q Do you believe that maintaining affordable housing is a
12 legitimate goal for the City of Tumwater?

13 A Yes.

14 Q And do you believe that manufactured housing parks
15 provide a source of affordable housing compared to other
16 housing types?

17 A Yes.]

18 Q Okay. When did you purchase Laurel Park?

19 A In September of 1991.

20 Q How much did you pay?

21 A A million three.]

22 Q And did you finance the property at that time?

23 A Yes.

24 Q And was an appraisal done of the property?

25 A Not to my knowledge.

1 there may be one or two that have four homes per
2 drainfield, maybe one that has two homes per drainfield.

3 Q Okay. And all of those drainfields are located within
4 the property limits that are set forth here in red?

5 A Yes.

6 Q And have you had any problems with the operation of your
7 drainfields on site?

8 A Yes.

9 Q What type of problems have you had?

10 A We've had several failures.

11 Q When was the last failure you had?

12 A I'd have to check my records.

13 Q Have you ever had a drainfield failure that could not be
14 rehabilitated?

15 A No.

16 Q Generally speaking, is there a cause of the drainfield
17 failures, to your knowledge?

18 A I'm not knowledgeable enough about the details of that.

19 Q Do you know whether Laurel Park has adopted any programs
20 to prolong the life of the drainfield?

21 A Yes.

22 Q What type of programs have you implemented at
23 Laurel Park?

24 A We're very serious about trying to maintain our septic
25 system, because that's the lifeblood of the property. We

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 14

1 have a scheduled pumping program. And it's looked after
2 by a licensed septic company.

3 Q Okay. What other things does your drainfield and septic
4 program involve?

5 A We advise our residents from time to time on what they
6 should be and what they shouldn't be putting down their
7 systems.

8 Q Do you restrict use of garbage disposals?

9 A I don't have that information at my fingertips right now.

10 Q Okay. Have you had any discussions with your septic
11 system company concerning the expected life of your
12 existing drainfields?

13 A No.

14 Q What's the current space rent that you charge your
15 tenants?

16 A \$460 per month.

17 Q Is that the 2010 rate?

18 A It's the current rate.

19 Q Okay. Was that the rate in 2009?

20 A For part of 2009.

21 Q Okay. So you raised your rent at some point in 2009?

22 A Yes.

23 Q What was the increase from?

24 A \$430.

25 Q And when did you raise that?

1 A Without checking in my records, I think the rent went up
2 on June 1st.]

3 Q Do you normally raise the rents or evaluate rental
4 increases on an annual basis?

5 A Yes.

6 Q And did you raise the rent from 2008 to 2009?

7 A Yes.

8 Q Okay. What was the rent in 2008?

9 A I don't have that information exactly.

10 Q Okay. Did Laurel Park make a profit in 2009?

11 A Yes.

12 Q And did it make a profit in 2008?

13 A Yes.

14 Q 2007?

15 A Yes.

16 Q Have there been any years since you owned it that it did
17 not make a profit?

18 A No.]

19 Q Have you had any . . . What type of water system does
20 Laurel Park have?

21 A Well water.

22 Q Have you had any problems providing water to your
23 tenants?

24 A No.

25 (Deposition Exhibit No. 2 marked

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 16

1 Q (BY MR. MYERS) Mr. Eichler, handing you page 3 of the
2 Plaintiffs' Initial Disclosures in this case, which was
3 provided by legal counsel. And this is only page 3. Did
4 you review the initial disclosures when they were made
5 last September?

6 A I don't understand the --

7 Q This page I'm representing to you is page 3 of some
8 disclosures that were made in the course of this
9 litigation under the Federal Rules of Civil Procedure.
10 My question is: Did you have a chance to review the
11 disclosure that was made concerning your testimony, which
12 is shown on this page?

13 A I looked at a lot of things. And I can't say absolutely
14 that I looked - reviewed this or not.

15 Q Okay. In this disclosure, it states that you will
16 testify concerning the liability and damages that are
17 sought in this lawsuit. And it makes a statement that
18 the land under appropriate zoning would be valued in a
19 couple of different ways. My first question has to do
20 with what do you consider appropriate zoning to be for
21 your property?

22 A The zoning that was in effect when I purchased it, which
23 was medium density multifamily.

24 Q Okay. And did the county ever have different zoning than
25 what ultimately became the city's zoning designation of

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 17

1 multifamily medium density residential?

2 A Not while I owned the property.

3 Q Okay. The statement here says that the land - with that
4 appropriate zoning, for uses currently taking place in
5 the immediate area, would value Laurel Park as follows.

6 What do you mean "value" in the context . . . Do you
7 know what that term would mean?

8 A Would you ask the question again.

9 Q Okay. In the last portion of the paragraph after your
10 office address information, you see the sentence that
11 reads, "The land under appropriate zoning"? It says,
12 "would value Laurel Park as follows." What is your
13 understanding of what "value" means?

14 A "Value" would mean the price that a willing buyer and a
15 willing seller were able to reach for the highest and
16 best use of the property.

17 Q Okay. In the next sentence down, it says medium density
18 12 acres at 15 units per acre at 50,000 per unit equals
19 \$9,000,000 total value at highest and best use. My first
20 question is: What is your understanding of the meaning
21 of the term "highest and best use"?

22 A Meaning of the term "highest and best use" would be the
23 medium density multifamily zoning.

24 Q Okay. How would you go about determining what the
25 highest and best use of property is?

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 18

1 A Highest and best use is what the demand is for the
2 property at any special time.

3 Q Has there ever been demand for your property for - to
4 purchase it for redevelopment into medium density
5 multifamily housing?

6 A No.

7 Q Do you have an opinion that the fair market value of your
8 property before the adoption of the city's zoning
9 ordinance was ever \$9,000,000?

10 A If I understand your question, I believe it was a minimum
11 of \$9,000,000. I believe \$50,000 per unit was the least
12 that the property would have been worth.

13 Q And how did you go about determining that?

14 A From discussions with people over the period of time and
15 from some of my own conclusions. In Seattle, Auburn
16 area, for example, lots were a hundred to hundred and
17 twenty-five thousand dollars. I assumed that - my
18 assumption myself that lots in Tumwater were not going to
19 be worth the same as in the Seattle area. And I've
20 always thought that the value would be somewhere between
21 60 and 80 thousand dollars per lot to a
22 builder/developer.

23 Q Would that be for single-family lots or multifamily?

24 A Single-family.

25 Q How was it you arrive at the number 50,000 per unit? Or

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 21

1 A There was an analysis done in about 2006.

2 Q And who did that analysis?

3 A Century Pacific Realty.

4 (Deposition Exhibit No. 3 marked
5 for identification.)

6 Q (BY MR. MYERS) Mr. Eichler, this is a declaration that
7 has been submitted by your legal counsel to me. And I
8 want to refer you to Exhibit B, which has a letter dated
9 December 13th, 2006 and a memorandum dated April 2nd,
10 2007.

11 A Okay.

12 Q Century Pacific, is this the demand analysis that you
13 were referring to?

14 A What?

15 Q Does this document, either the December 13th, 2006 or the
16 April 2nd, 2007 memoranda, do they discuss the market
17 demand for your property?

18 A Yes.

19 Q Okay. Can you show me where that is discussed in these
20 documents?

21 A The discussion of 15 units per acre?

22 Q The discussion of the market demand to redevelop your
23 property at 15 units per acre.

24 A I don't . . .

25 (Deposition Exhibit No. 4 marked

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 22

1 Q (BY MR. MYERS) Mr. Eichler, I'm going to show you
2 another exhibit, which has been marked as Exhibit 4. And
3 this is a letter from Century Pacific dated March 9,
4 2007. Does this letter contain the market analysis we
5 were just discussing?

6 A Yes.

7 Q Okay. And on the first page, which has a number in the
8 corner of 222, there is a statement there which said,
9 "These numbers suggest that it may make more sense to
10 continue operating this property as a mobile home park
11 and/or taking it to market on the basis of a mobile home
12 park and not a development opportunity." Do you see that
13 statement?

14 A I remember it. Yes.

15 Q Okay. Did you agree with that statement?

16 A Yes.

17 Q So based on the analysis that Century Pacific did in
18 early 2007, you agreed that, at that point in time, the
19 highest and best use of the property was as a mobile home
20 park?

21 A Yes.]

22 Q Has there been any change in conditions since March of
23 2007 that would create demand for redevelopment of the
24 property?

25 A I believe if I have my dates right, that there was a

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 23

1 housing boom that hit Tumwater after that period and a
2 lot of new houses started to be built, which showed there
3 was a demand for higher and better use of the property.
4 And that had not the recession come, with all the housing
5 going on - particularly with the property right next to
6 me with a permit for 122 houses. And if you drive around
7 the area, you'll see lots of new houses and developments.
8 It was clear to me that after this period, there was a
9 building boom that had started to happen down in that
10 area.

11 Q Okay. Can you tell me when this boom approximately was
12 occurring? I take it there was a window of opportunity
13 that you would call the boom period before the recession
14 hit. Is that a fair way to characterize what you just
15 told me?

16 A Yes, I think there was.

17 Q Okay. Can you tell me approximately when this window
18 began and when the recession hit that closed that window?

19 A I don't have those facts at my fingertips.

20 Q Okay. After March of 2007, did you make any effort to
21 sell your property for redevelopment purposes?

22 A No.

23 (Deposition Exhibit No. 5 marked
24 for identification.)

25 Q (BY MR. MYERS) Exhibit 5 is a document that was provided

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 24

1 through your legal counsel, which appears to be an offer
2 to purchase the Laurel Park Mobile Home Park by West
3 Pinnacle Investments, LLC.

4 A Yes.

5 Q Is that your understanding of what this document is?

6 A Yes.

7 Q Okay. And you received this in October of 2007?

8 A Yes.

9 Q And West Pinnacle Investments, the individual who was
10 representing them was John Dunham. Do you know
11 Mr. Dunham?

12 A I may have met him.

13 Q Do you know whether he owns the Allimor Mobile Home Park
14 in the city of Tumwater?

15 A No, I don't.

16 Q This offer is for \$4,000,000. Did you accept this offer?

17 A No.]

18 Q Why not?

19 A Because I didn't think this was anywhere near the
20 developmental price of the property. This was more a
21 price for a mobile home park. I had no desire to sell my
22 mobile home park at mobile home park prices.

23 Q In your declaration, Exhibit 3, going back to the letters
24 from Century Pacific, the very last page of that is the
25 April 2nd, 2007 memorandum from Century Pacific. Do you

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 25

1 know, was this from Mr. Mathewson?

2 A It was from his company.

3 Q Okay. This appears to be a redacted document. Did you
4 see a full version of this document?

5 A Yes.

6 Q The portion which is disclosed in this document states
7 that the value - under A, says 11.73 acres MF, medium
8 density residential, nine to 15 units per acre,
9 3.7 million.

10 A Yes.

11 Q Was it your understanding that that was Century Pacific's
12 opinion as to the value for redevelopment purposes?

13 A Yes.

14 Q And under B, it says, "NOI \$250,000." Is it your
15 understanding that means net operating income 250,000?

16 A Yes.

17 Q Is that a correct approximation of your net operating
18 income in 2007?

19 A An approximation. Yes.

20 Q They rounded it; correct?

21 A (Nods head.)

22 Q You have to respond audibly so she can take down a word.

23 A Oh, I'm sorry. Yes.

24 Q Okay. And that the value they were placing on your
25 property was 3.3 million using a cap rate of 7.5 percent?

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 26

1 A That's what it says here.

2 Q And that's your understanding as to what they were trying
3 to convey to you in this memorandum?

4 A Yes.

5 Q Do you recall whether any other portions of the
6 memorandum that you received on April 2nd, 2007 concerned
7 your mobile home park in Tumwater in any way, shape or
8 form?

9 A Any other part of the memorandum had nothing to do with
10 Tumwater.

11 Q So this redacted portion is the only provision in that
12 memorandum that mentioned Tumwater?

13 A Yes.

14 Q Going back to Exhibit Number 2, the Initial Disclosures,
15 after there is a calculation of the medium density value,
16 there is another statement that says the value of Laurel
17 Park at \$45,000 per space equals \$3,285,000. What is
18 your understanding of the meaning of that sentence?

19 A Well, someone has put a value of \$45,000 per space.

20 Q Would that be the value of your mobile home park under
21 its current use as a mobile home park?

22 A I haven't done the calculations recently, so I cannot
23 tell you that today this figure is - of \$3,285,000 is the
24 value of my mobile home park. I will say that it's in
25 that area.

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 37

1 Q Well, you've drafted this and signed it on January 25th,
2 2010. And this talks about your expectations in 2008
3 when the annexation was pending. At that point in time,
4 did you have a plan to redevelop the property within any
5 certain time period?

6 A [My only plan to redevelop the property was when the time
7 came that the highest and best use - demand for the
8 property would be for the higher and better use. And I
9 really didn't know if it was next year, two years from
10 now, five years from now. I bought the property in 1991
11 knowing that the highest and best use, value at that time
12 was a mobile home park. And I looked to the future and
13 hoped for the future that in my lifetime, the demand for
14 that property would be for me to develop it into the
15 zoning that was on the property. I've never had an exact
16 time and date, because I've had to wait for the
17 opportunity to present itself.]

18 Q Okay. The last sentence of paragraph 5, you discussed
19 the city had begun a process to rezone the park in 2007.
20 When did you first become aware that Tumwater was in the
21 process to rezone mobile home parks?

22 A I don't know that I can pin down any date, but certainly
23 after the annexation. [And I think the annexation was in
24 December of 2007.] And I wasn't aware of that - anything
25 they were going to do to change the ordinance until

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 38

1 sometime after that.

2 Q Okay. Let me go back to your statements concerning
3 Tumwater's assurance. You mentioned that Mr. Ginther had
4 provided that assurance through Mr. Missall. Was there
5 assurance from anybody other than David Ginther?

6 A Only general conversations with many people who were
7 somewhat - with some people who were familiar with the
8 annexation.

9 Q Okay. Were any of those people employed by the City of
10 Tumwater or officials of the City of Tumwater?

11 A No.

12 Q Were any of those assurances relating to your statements
13 from officials of the City of Tumwater?

14 A Not that I can recall.

15 Q Do you believe that it's reasonable to believe that
16 property will never be rezoned?

17 A I don't know that much about the zoning process to know
18 it will never be rezoned.

19 Q Okay. Let me ask you about paragraph 3 of your
20 declaration, which says you purchased, sold and managed
21 various manufactured home communities since 1982. What
22 manufactured home community were you involved in in 1982?

23 A Auburn Manor in Auburn, Washington.

24 Q And do you still own that property?

25 A No.

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 47

1 proposals to the city.

2 Q Okay. Do you know whether or not there was a preliminary
3 plat application, whether there was the application that
4 got you on the way to the building permit?

5 A I don't remember those details.

6 Q Okay. Is it . . . Do you have an understanding of what
7 a preliminary plat application is?

8 A Again, let me say I'm not a developer. I'm just starting
9 to think about developing my properties. And I don't
10 know all the terms.

11 Q Okay. Fair enough. In terms of Laurel Park, have you
12 ever made any application to either Thurston County or
13 the City of Tumwater to get you on the road to building
14 permits for redevelopment?

15 A No.]

16 Q Okay. Let's go back to your declaration, Exhibit 3. And
17 in paragraph 6, you discuss some of the provisions of the
18 2009 manufactured home park ordinance. Have you read the
19 2009 manufactured home park ordinance?

20 A Yes. Just recently.

21 Q Okay. Did you read it before you signed this
22 declaration?

23 A Not in its entirety.

24 Q In this paragraph, you state that the additional uses
25 that you are allowed to put your property under the

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 48

1 existing zoning are not economically viable uses of your
2 property because some, like parks and trails, are no
3 income at all. Can you tell me what analysis you have
4 done to determine whether additional uses would be
5 economically viable or not?

6 A My own personal opinion and being in the business that
7 I'm in, there are no things on this list of 23 things or
8 whatever it is that appear to me to be economically
9 viable.

10 Q Okay. Have you done any investigation as to the
11 economics of doing support and child care facilities?

12 A No.

13 Q Have you done any investigation as to the economics of a
14 church or cemetery use?

15 A No.

16 Q In the last sentence on paragraph - or page 2 carrying
17 over to page 3, you discuss institutional uses, such as
18 churches, cemeteries and essential public facilities.
19 And at the top of page 3, you state a church or a
20 cemetery is hardly a viable economic use. Can you tell
21 me what the basis for that conclusion is?

22 A Certainly it's my opinion and it's based on reality. How
23 could a church or a cemetery return the type of
24 investment that a mobile home park would return.

25 Q Okay. Have you had any experience in dealing with

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 57

1 community, the spaces are small and there are no mobile
2 homes made anymore that will go in that. And that's what
3 I see also for Laurel Park. It's an older community
4 that's going to become obsolete fairly soon.

5 Q But at Laurel Park, you were able to find two homes - two
6 single-wide, 14-foot-wide homes to fill the spots when
7 you did get a vacancy in 2009; is that right?

8 A Yes. Those spaces weren't as small as the spaces I had
9 that I was referring to with eight vacancies. It is
10 difficult to find. My spaces at Laurel Park are not
11 large spaces, and it's going to become more and more
12 difficult to find homes to fill those spaces.

13 Q Where did you find the homes that you were planning on
14 replacing, assuming the city council changes its
15 ordinance? Where did you find the home that you
16 purchased?

17 A We hope . . . First of all, it's not my business to be
18 in buying homes to fill my spaces. We hope that the
19 demand for mobile home spaces and the belief of the
20 council that there's a big demand for mobile home spaces,
21 we hope that the demand - people will call us up, as they
22 did in the past, and want to rent a space in our
23 community. But the demand for spaces is so low that
24 we're forced to go out and have to buy homes myself to
25 put in there to fill and try to sell. So I found this

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 58

1 home, I believe - because I didn't find it personally,
2 but my manager's duty to find the homes, but I believe
3 the home was found through a dealer that had taken it on
4 trade.

5 Q Do you know who that dealer was?

6 A I don't recall the name.

7 Q Do you recall whether it was U-Save Mobile Home Parks -
8 or Mobile Homes?

9 A I don't even recall if I really knew the name.

10 Q Okay. Fair enough.

11 MR. OLSEN: Good spot to take a break at any
12 point?

13 MR. MYERS: Yeah. Why don't we go ahead and
14 take a break, because we're just about done.

15 (Recess was taken.)

16 Q (BY MR. MYERS) Mr. Eichler, have you reviewed the
17 Tumwater zoning ordinance provisions concerning a use
18 exception to have the zoning changed back to its previous
19 zoning if there isn't a viable alternative use to a
20 mobile home park?

21 A Yes.

22 Q Okay. Have you made any application to utilize that use
23 exception to the City of Tumwater?

24 A No.]

25 Q Why not?

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 59

1 A Because the highest and best use of my property right now
2 is a mobile home park.

3 Q Is operation of a mobile home park currently an
4 economically viable use for you?

5 A In today's market. Not tomorrow's market. But today's
6 market when there is no demand for building because of
7 the recession, the operation of Laurel Park Estates is a
8 viable use for me.]

9 Q Do you make a . . . Do you distinguish between an
10 economically viable use and what would be the highest and
11 best use if you were allowed other types of uses for the
12 property?

13 A I'm not sure I understand the question.

14 Q I'm not sure I do either. Let me try to rephrase. Is
15 there a difference, in your mind, between what would be
16 the highest and best use of the property and economically
17 viable use of the property?

18 A I'll still try to understand that. Economically viable
19 use of the property should really be the highest and best
20 use of the property.

21 Q Let me ask you some questions about the effect of the
22 zoning ordinance on your operations at Laurel Park. Has
23 the adoption of the mobile home park zoning forced you to
24 incur any additional costs other than the costs of the
25 lawsuits?

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 60

1 A Well, it certainly has cost me revenue because of lack of
2 being able to put mobile homes on empty spaces.

3 Q Is that part of the city's 2009 zoning ordinance? Or is
4 that part of something else? Is it your understanding
5 that's part of the city's 2009 zoning ordinance?

6 A Yes. Maybe I misunderstood your other question.

7 Q Okay. The mobile home park zoning that limits you to
8 mobile home parks and 22 other uses, has that forced you
9 to incur any costs in operation of Laurel Park?

10 A I don't have that information at my fingertips, because
11 being in the city may have additional - cost me
12 additional as opposed to being in the county. But I
13 don't have that information.

14 Q Okay. Is it your . . . What types of costs would being
15 in the city - what types of costs could possibly be
16 incurred as a result of that?

17 A I'm not an expert on annexation and those things. But it
18 could be increased costs for fire or for police
19 protection. It could be increased cost in taxes. I
20 don't have that information at my fingertips.

21 Q Okay. Have you been compelled to pay any fees to the
22 City of Tumwater for fire or police protection, to your
23 knowledge?

24 A I don't have that knowledge at my fingertips.

25 Q Okay. Has the adoption of the zoning ordinance forced

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 61

1 you to pay any fees to anybody other than your attorneys?

2 A No.

3 Q Okay. Has the adoption of the zoning ordinance
4 restricted your ability to increase the rent for spaces
5 within Laurel Park?

6 A No.

7 Q Is there anything that you were doing as of the date of
8 adoption of that ordinance in operating your mobile home
9 park that you cannot now do under the amended zoning?

10 A I don't have that information at my fingertips.

11 MR. MYERS: Mr. Eichler, that's all the
12 questions that I have.

13 Mr. Olsen.

14 MR. OLSEN: No questions. We'll reserve
15 signature.

16 (Concluded at 3:47 p.m.)

17 (Signature reserved.)

18

19

20

21

22

23

24

25

Laurel Park v. City of Tumwater
Deposition of Robert Eichler

Page 62

1

C E R T I F I C A T E

2

3 I, CONNIE CHURCH, a duly authorized Court Reporter and
4 Notary Public in and for the State of Washington, residing at
5 Montesano, do hereby certify:

6 That the foregoing deposition of ROBERT EICHLER was
7 taken before me on February 15, 2010, and thereafter transcribed
8 by me by means of computer-aided transcription; that the
9 transcript is a full, true and complete transcript of the
10 testimony of said witness;

11 That the witness, before examination, was by me duly
12 sworn to testify the truth, the whole truth and nothing but the
13 truth, and that the witness reserved signature;

14 That I am not a relative, employee, attorney or
15 counsel of any party to this action or relative or employee of
16 any such attorney or counsel, and I am not financially
17 interested in the said action or the outcome thereof;

18 That upon completion of signature, if required, I
19 shall herewith securely seal the original transcript and serve
20 same upon MR. JEFF MYERS, counsel for the Defendant.

21 IN WITNESS WHEREOF, I have hereunto set my hand and
22 affixed my official seal this 24th day of February, 2010.

23

24

25

CONNIE CHURCH
CERTIFIED COURT REPORTER

CENTURY PACIFIC, L.P.

CAMPBELL MATHEWSON
VICE PRESIDENT

March 9, 2007

Mr. Robert M. Eichler
Lake-Land Investments
3455 Hunts Point Road
Bellevue, WA 98004

Re: Summary of real estate issues

Dear Bob:

Thank you again for the opportunity to allow CenturyPacific to assist you with the development and sale options of your various mobile home parks. This letter is for the purpose of providing you with an overview of real estate issues in regards to your mobile home parks located in [REDACTED] Tumwater and [REDACTED]. We look forward to an opportunity to discuss these matters with you at your convenience.

Tumwater (3244 66th Avenue S.W., Olympia, WA 98512)

This 11.73 acre property is zoned Multi-Family Medium Density Residential (MFM) in Thurston County with a density of 9 to 15 units per acre. Since the county requires a minimum of 9 units per acre which would provide relatively small 3,700 square foot lots, we believe that the zoning of this property forces a more dense multi-family product. At 14 units per acre (i.e., one less than the maximum), the value of the Tumwater site today is \$3.7 million (see attached). However, since you currently yield approximately \$250,000 per year in net operating income, using a 7.0% capitalization rate yields a value of \$3.6 million; at a 7.5% cap rate the value is \$3.3 million. These numbers suggest that it may make more sense to continue operating this property as a mobile home park and/or taking it to market on the basis of a mobile home park and not a development opportunity. You will notice that the value of this park is a relatively low \$23,000 per zoned lot. We believe the reason is due to the lack of market acceptance for smaller dense townhome units in Thurston County which are reflected in relatively low sales prices.

Gross Land Area
 Net Developable Land Area
 # of Lots
 Lot sizes
 # of months for Preliminary Plat Approval
 # of months for Final Plat Approval

SUMMARY
 Tumwater
RESIDUAL LAND VALUE CALCULATION
 11.73 acres 510,959 square feet
 9.03 acres 393,438 square feet 77%
 164 lots (at 14/acre) Zoning: Multi-Family Medium Density Residential 9-15 du/acre
 2,396 square feet 393,438 of lot sf
 18 months
 18 months

AS-IS VALUE

Land Value As-Is	\$ 3,707,207	\$ 22,575 per lot	\$ 9.42 per land square foot
Cost of Sales	7% \$ (259,504)	\$ (1,580) per lot	(\$0.66) per land square foot
Original Cost	\$ 3,447,703	\$ 20,994 per lot	\$ 8.76 per land square foot
Profit	\$ (0)	\$ (0) per lot	
	\$ 3,447,702	\$ 20,994 per lot	

PAPER PLAT VALUE

Land Value As-Is	\$ 3,707,207	\$ 22,575 per lot	\$ 9.42 per land square foot
Plus Pre Plat Cost Including Profit	\$ 2,233,997	\$ 13,604 per lot	\$ 5.68 per land square foot
Paper Plat Value including Cost & Profit	\$ 5,941,204	\$ 36,178 per lot	\$ 15.10 per land square foot
Cost of Sales	7% (\$415,884)	\$ (2,532) per lot	(\$1.06) per land square foot
Paper Plat Value including Cost	\$ 5,525,320	\$ 33,646 per lot	\$ 14.04 per land square foot
Cost of Preliminary Plat	\$ (862,950)	\$ (5,255) per lot	
Paper Plat Value Net of Cost but incl. Profit	\$ 4,662,370	\$ 28,391 per lot	
Value increase over As-Is	\$ 1,214,667	\$ 7,397 per lot	\$ 3.09 per land square foot
Cash on cash return	141%		

FINAL PLAT VALUE

Pre Plat Value Before Sales Costs	\$ 5,941,204	\$ 36,178 per lot	\$ 15.10 per land square foot
Plus Final Plat Cost & Profit	\$ 7,196,396	\$ 43,822 per lot	\$ 18.29 per land square foot
Final Plat Value Before Sales Costs	\$ 13,137,600	\$ 80,000 per lot	\$ 33.39 per land square foot
Cost of Sales	7% (\$919,632)	\$ (5,600) per lot	(\$2.34) per land square foot
Final Plat Value including Cost	\$ 12,217,968	\$ 74,400 per lot	\$ 31.05 per land square foot
Cost of Final Plat	\$ (6,841,247)	\$ (41,659) per lot	
Final Plat Value Net of Cost but incl. Profit	\$ 5,376,721	\$ 32,741 per lot	
Value increase over Paper Plat	\$ 714,351	\$ 4,350 per lot	\$ 1.82 per land square foot
Cash-on-cash return (before tax)	10%		

NPV		
Tumwater		
RESIDUAL LAND VALUE CALCULATION		
Gross Land Area	11.73 acres	510,959 square feet
Net Developable Land Area	9.03 acres	393,438 square feet
# of Lots	164 lots	77%
Lot sizes	2396 square feet	393,438 of lot sf
# of months for Preliminary Plat Approval	18 months	
# of months for Final Plat Approval	18 months	

Land Purchase			
Sales Price Per Home	\$0	\$0	per unit land cost
Sales Price (Final Plat Value)	\$225,000	96%	of Final Plat Value
Absorption Period	\$80,000	per lot	
Inflation	3 years		
Cost of Sales	4% per year		
Permitting Costs (excludes profit)	7%		
Development Costs (excludes profit)	\$ 862,950	\$ 5,255	
	\$ 7,704,197	\$ 46,914	
	\$ 8,567,147	\$ 52,169	per lot cost

	Year	2006	2007	2008	TOTAL
Inflation Factor		100%	104%	108%	
Lot Development Rate		33%	33%	33%	
% of Lot Sales		0%	50%	50%	100%
# of Lots Sold		0	82	82	164
Gross Sales Price Per Lot		\$80,000	\$83,200	\$86,528	
Total Gross Sales Per Year		\$80,000	\$83,200	\$86,528	
Less Cost of Sales		\$ 6,822,400	\$ 7,095,296	\$ 13,917,696	
Net Sales		\$ (477,568)	\$ (496,671)		
Land Cost		\$ 6,344,832	\$ 6,598,625	\$ 12,943,457	
Permitting Costs		\$ (0)	\$ 0	\$ 0	\$ (0)
Development Costs		\$ (862,950)	\$ 0	\$ 0	\$ (862,950)
NET OPERATING INCOME		\$ (2,568,065)	\$ (2,670,788)	\$ (2,773,511)	\$ (8,012,364)
NPV	6%	\$ (3,431,015)	\$ 3,674,044	\$ 3,825,115	
IRR	72%	\$ 8,244,719			

Turnwater RESIDUAL LAND VALUE CALCULATION					
Gross Land Area	11.73 acres	510,959	square feet		
Net Developable Land Area	9.03 acres	393,438	square feet	77%	
of Lots	164 lots				
lot sizes	2396 square feet	393,438	of lot sf (based on Net Developable)		
# of months for Preliminary Plat Approval	18 months				
# of months for Final Plat Approval	18 months				

Description	Quantity	Unit	Cost/Unit	Total	Notes	Cost/Lot
HARD COSTS						
Demo blgs / Dispose junk & concrete	1 each	\$ 20,000	\$ 20,000		\$ 122	
Asbestos removal	1 each	\$ 15,000	\$ 15,000		\$ 91	
Asphalt removal (pulverize and use for fill)	4,000 tons	\$ 13	\$ 52,000		\$ 317	
Clear 50 trees	9.0 ac	\$ 400	\$ 3,613		\$ 22	
Erosion control	164 lots	\$ 800	\$ 131,376		\$ 800	
Grading import	50,000 cy	\$ 8	\$ 400,000		\$ 2,436	
Production screened topsoil	5,000 cy	\$ 8	\$ 40,000		\$ 244	
Rockeries	10,000 sf	\$ 2	\$ 20,000		\$ 122	
Sanitary sewer	5,000 lf	\$ 40	\$ 200,000		\$ 1,218	
Force main	2,000 lf	\$ 12	\$ 24,000		\$ 146	
Lift station	1 lump sum	\$ 200,000	\$ 200,000		\$ 1,218	
Offsite storm	1,000 lf	\$ 25	\$ 25,000		\$ 152	
Offsite water	1,000 lf	\$ 58	\$ 58,000		\$ 353	
Offsite paving	1,000 lf	\$ 180	\$ 180,000		\$ 1,096	
Underground / Overhead - fiber	1,000 lf	\$ 200	\$ 200,000		\$ 1,218	
Offsite street lights	10 each	\$ 6,000	\$ 60,000		\$ 365	
Storm drainage	5000 lf	\$ 40	\$ 200,000		\$ 1,218	
Lot drainage system	5000 lf	\$ 11	\$ 55,000		\$ 335	
Water system	5000 lf	\$ 40	\$ 200,000		\$ 1,218	
Trench import	12,500 tons	\$ 10	\$ 125,000		\$ 761	
Flexible fittings	1 lump sum	\$ 20,000	\$ 20,000		\$ 122	
Dynamic consolidation or preload	1 lump sum	\$ 120,000	\$ 120,000		\$ 731	
Curbs and gutters	5,000 lf	\$ 25	\$ 125,000		\$ 761	
Onsite base and pave	5,000 lf	\$ 65	\$ 325,000		\$ 1,979	
Dry utilities trenching	8,500 lf	\$ 15	\$ 127,500		\$ 776	
Sidewalks	5,000 lf	\$ 22	\$ 110,000		\$ 670	
"boxes	20 each	\$ 2,000	\$ 40,000		\$ 244	
andscape common areas	1 lump sum	\$ 200,000	\$ 200,000		\$ 1,218	
Wetland/creek mitigation	1 lump sum	\$ 40,000	\$ 40,000		\$ 244	
Box culvert(s)	0 each	\$ 18,000	\$ 18,000			
Geotech piling: pin piles	0 lots	\$ 35,000	\$ 35,000			
Entry monument	1 lump sum	\$ 100,000	\$ 100,000		\$ 609	
On-site Street lights	20 each	\$ 4,000	\$ 80,000		\$ 487	
Plat fencing	2,500 lf	\$ 22	\$ 55,000		\$ 335	
Subtotal of hard construction costs						\$ 3,551,489
Contingency (as % of hard costs)	15%		\$ 532,723	\$ 532,723		\$ 21,626
						\$ 3,244

SOFT COSTS, FEES, ETC.**Preliminary Plat Approval****Preliminary Engineering**

Civil	9 1/2 PP months	\$ 10,000	\$ 90,000	\$ 548
Traffic	9 1/2 PP months	\$ 5,000	\$ 45,000	\$ 274
Wetlands/Wildlife	9 1/2 PP months	\$ 3,000	\$ 27,000	\$ 164
Hydraulic/Flood	9 1/2 PP months	\$ -	\$ -	\$ -
Fisheries	9 1/2 PP months	\$ -	\$ -	\$ -
Pre Plat App Fees	1 lump sum	\$ 15,000	\$ 15,000	\$ 91
City Review Fees	9 1/2 PP months	\$ 3,500	\$ 31,500	\$ 192
SEPA Review	1 lump sum	\$ 1,200	\$ 1,200	\$ 7
EIS Fees	1 lump sum	\$ 200,000	\$ 200,000	\$ 1,218
Development Management Fee (Pre Plat)	18 Pre Plat months	\$ 10,000	\$ 180,000	\$ 1,096
Public Relations	9 Pre Plat months	\$ 5,000	\$ 45,000	\$ 274
Legal Fees (Pre Plat)	18 Pre Plat months	\$ 5,000	\$ 90,000	\$ 548
Marketing of Pre Plat Fee	4.5 1/4 PP months	\$ 12,500	\$ 56,250	\$ 343
Subtotal Preliminary Plat Approval Fees		\$ 780,950		\$ 4,756
Bank Charges, Loan Fee, Appraisal Fee, Etc.	1% PP Fees/PP Period	\$ 1,171,425	\$ 11,714	
Interest Paid on Loan for Pre Plat Approval	6% PP Fees/PP Period	\$ 1,171,425	\$ 70,286	
Developer's Profit on Preliminary Plat	30% PP+Bank+i+Land	\$ 4,570,157	\$ 1,371,047	
			\$ 2,233,897	\$ 13,604

Final Plat Approval

Final Engineering	164 lots	\$ 2,000	\$ 328,440	\$ 2,000
Action Testing	3,500 lf	\$ 18	\$ 63,000	\$ 384
Survey and Final Plat	164.22 lots	\$ 1,500	\$ 246,330	\$ 1,500
Public Works Plan Review & Inspection Fees	\$ 1,775,744	1/2 const value	\$ 53,272	\$ 324
Final Plat Review Fees: City		1 lump sum	\$ 20,000	\$ 122
Fire fee	164 lot	\$ 400	\$ 65,688	\$ 400
Traffic fee	164 lot	\$ 933	\$ 153,217	\$ 933
			\$ 2,25-	

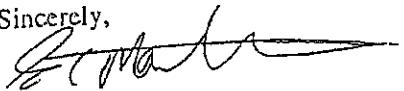
Parks fee	164 lot	\$ 400	\$ 65,688	\$ 400
School fee	164 lot	\$ 0	\$ 0	\$ 0
Stormwater development charges	164 lot	\$ 800	\$ 131,376	\$ 800
Waste water fee	164 lot	\$ 900	\$ 147,798	\$ 900
Sewer latecomers frontage fee	0 lf	\$ 45	\$ -	\$ -
Water system development charge	164 each	\$ 1,525	\$ 250,436	\$ 1,525
Water latecomers charges	1,500 lf	\$ -	\$ -	\$ -
Grading license fee	1 each	\$ 2,000	\$ 2,000	\$ 12
Bond fees	164 lots	\$ 1,100	\$ 180,642	\$ 1,100
Development Management Fee	10% Hard Costs	\$ 3,551,489	\$ 355,149	\$ 2,163
Legal Fees	18 Final Plat Months	\$ 2,500	\$ 45,000	\$ 274
Developer's Profit	10% Hard Costs	\$ 3,551,489	\$ 355,149	\$ 2,163
Other Soft Costs				
Real Estate Taxes	18 Final Plat Months	\$ 126,122	\$ 189,183	\$ 2,652,368
FINANCING				
Interest	2% %*(FP Time)	\$ 19,706,400	\$ 394,128	\$ 2,400
Loan Fee & Closing Costs	0.50% %	\$ 13,137,600	\$ 65,688	\$ 459,816
Building Lot Development Costs				
Final Plat / Retail Land Value	164 lots	\$ (57,425)	\$ (9,430,393)	\$ 9,430,393
Raw Land Value AS-IS - Cost/lot	164 lots	\$ 80,000	\$ 13,137,600	\$ 80,000
	164 lots	\$ 22,575	\$ 3,707,207	\$ 22,575
AS-IS VALUE				
Land Value As-Is		\$ 3,707,207	\$ 22,575 per lot	\$ 7.26 per land square foot
Cost of Sales	7%	\$ (259,504)	\$ (1,580) per lot	(\$0.51) per land square foot
Original Cost		\$ 3,447,703	\$ 20,994 per lot	\$ 6.75 per land square foot
Profit		\$ (0)	\$ (0) per lot	
		\$ 3,447,702	\$ 20,994 per lot	
PAPER PLAT VALUE				
Land Value As-Is		\$ 3,707,207	\$ 22,575 per lot	\$ 7.26 per land square foot
Plus Pre Plat Cost Including Profit		\$ 2,233,997	\$ 13,604 per lot	\$ 4.37 per land square foot
Paper Plat Value including Cost & Profit		\$ 5,941,204	\$ 36,178 per lot	\$ 11.63 per land square foot
Cost of Sales	7%	\$ (415,884)	\$ (2,532) per lot	(\$0.61) per land square foot
Paper Plat Value including Cost		\$ 5,525,320	\$ 33,646 per lot	\$ 10.81 per land square foot
Cost of Preliminary Plat		\$ (862,950)	\$ (5,255) per lot	
Paper Plat Value Net of Cost but incl. Profit		\$ 4,662,370	\$ 28,991 per lot	
Value increase over As-Is		\$ 1,214,657	\$ 7,397 per lot	\$ 2.38 per land square foot
Cash on cash return			141%	
FINAL PLAT VALUE				
Pre Plat Value Before Sales Costs		\$ 5,941,204	\$ 36,178 per lot	\$ 11.63 per land square foot
Plus Final Plat Cost & Profit		\$ 7,196,396	\$ 43,822 per lot	\$ 14.08 per land square foot
Final Plat Value Before Sales Costs		\$ 13,137,600	\$ 80,000 per lot	\$ 25.71 per land square foot
Cost of Sales	7%	\$ (919,632)	\$ (5,600) per lot	(\$1.80) per land square foot
Final Plat Value including Cost		\$ 12,217,968	\$ 74,400 per lot	\$ 23.91 per land square foot
Cost of Final Plat		\$ (6,841,247)	\$ (41,650) per lot	
Final Plat Value Net of Cost but incl. Profit		\$ 5,376,721	\$ 32,741 per lot	
Value increase over Paper Plat		\$ 714,351	\$ 4,350 per lot	\$ 1.40 per land square foot
Cash-on-cash return (before tax)			10%	

Disclaimer

Please note that Washington law generally prohibits any person except a licensed appraiser from providing an estimate of value for real property. One exception to this prohibition is a broker's opinion of value to be utilized to provide acquisition and disposition advice (See RCW 18.140.020(1)). The estimates provided in this report are offered in the context of a broker's opinion of value.

Thank you again for the opportunity to assist you with your various real estate holdings. Please let us know if you have any further questions.

Sincerely,



Campbell Mathewson
Vice President & Designated Broker

3

CRE 4485v1 28149-28149-1
Seattle